

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:06CR269

FILED
ASHEVILLE, N.C.

SEP 25 2007

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
HICKS HELTON)
Defendant.)

**CONSENT ORDER
CONCERNING SUBSTITUTE
PROPERTY FOR REAL PROPERTY**

WHEREAS, on January 16, 2007, the Grand Jury for the Western District of North Carolina returned a Superseding Bill of Indictment against the defendant;

WHEREAS, the Superseding Bill of Indictment included a Notice of Forfeiture and Finding of Probable Cause stating the intent of the United States to forfeit \$389,633.00 in United States currency and real property with the address of 3011 Wood Road, described in Book 1292, Page 1011, of the Cleveland County Land Registry, Cleveland County, North Carolina;

WHEREAS, on February 14, 2007, and February 22, 2007, the defendant entered into a plea agreement and an amended plea agreement, respectively, with the United States in which he agreed to plead guilty to Count Two of the Superseding Bill of Indictment, a violation of 18 U.S.C. § 1955, conducting an illegal gambling business, and in which he agreed to forfeit the aforementioned currency and real property;

WHEREAS, with respect to the forfeiture of the real property, the plea agreements also allowed the defendant, at the discretion of the United States, to substitute currency in the amount equal to the defendant's share of the equity in the real property;

WHEREAS, on February 22, 2007, the defendant, pursuant to Federal Rule of Criminal Procedure 11 and the plea agreements, pleaded guilty to Count Two of the Superseding Bill of Indictment;

WHEREAS, on February 22, 2007, the Court entered a Consent Order and Judgment of Forfeiture in which the aforementioned currency and real property was forfeited to the United States;

WHEREAS, the United States filed a Lis Pendens with the Cleveland County Register of Deeds on April 5, 2007;

WHEREAS, on April 14, 2007, Public Notice of the forfeiture was served and returned according to law;

WHEREAS, no other person or entity has filed a petition with the Court asserting ownership of the aforementioned property;

WHEREAS, on May 9, 2007, Judgment was entered against the defendant;

WHEREAS, the United States and the defendant have agreed to substitute the following property for the aforementioned real property: \$175,125.00.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

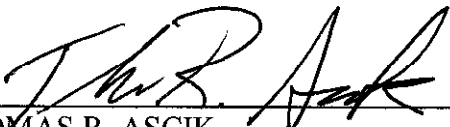
1. Pursuant to Fed. R. Crim. P. 32.2(c)(2), the following property is forfeited to the United States for disposition according to law:

United States currency in the amount of \$175,125.00,

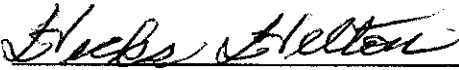
United States currency in the amount of \$389,633.00.

2. The defendant pay the United States the amount of \$175,125.00.
3. The forfeiture against 3011 Wood Road, described in Book 1292, Page 1011, of the Cleveland County Land Registry, Cleveland County, North Carolina, be dismissed with prejudice;
4. The United States release the Lis Pendens filed with the Cleveland County Register of Deeds on April 5, 2007.
5. Each party bear its own costs, including attorney's fees.


ON MOTION AND BY CONSENT OF THE PARTIES:



THOMAS R. ASCIK
Assistant United States Attorney



HICKS HELTON
Defendant



LEO DAUGHTRY
Attorney for Defendant

This the 24th day of September, 2007.



LACY H. THORNBURG
UNITED STATES DISTRICT COURT JUDGE